

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

RULES OF PRACTICE

Proposed Readoption with Amendments: N.J.A.C. 14:1

Proposed Amendments: N.J.A.C. 14:1-1.3, 1.4, 1.6, 1.6A, 1.7, 2.2, 3.1, 3.3, 4.2, 4.2A, 5.2, 5.6, 5.9, 5.9A, 5.11, 5.12, 5.13, 8.7, 12.5, 12.18

Authorized By: New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, and Robert Gordon, Commissioners

Authority: *N.J.S.A. 47:1A-1* et seq., *N.J.S.A. 48:2-15.2*, and *N.J.S.A. 52:27F-18*

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: AX15010031

Proposal Number:

The deadline for comments on this matter is 5:00 p.m. ET on March 3, 2022. Please submit comments directly by using the Board's Public Document Search tool, search for the specific docket listed above and post by utilizing the "Post Comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Aida Camacho-Welch

Secretary of the Board

44 South Clinton Ave., 1st Floor

PO Box 350

Trenton, NJ 08625-0350

Attn: AX15010031

Phone: 609-292-1599

Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Comments are considered “public documents” for purposes of the State’s Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3.

The agency proposal follows:

### **Summary**

The New Jersey Board of Public Utilities is proposing to readopt its rules of practice, found at *N.J.A.C. 14:1*. These rules govern practice and procedure before the New Jersey Board of Public Utilities, which includes all pleadings, petitions, and filings; fees and charges; and appearances and motions in both contested and uncontested cases. The rules also cover confidentiality issues that arise pursuant to the Open Public Records Act. Pursuant to *N.J.S.A. 52:14B-5.1.c(2)*, the rules are scheduled to expire on August 19, 2022. As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Below is a section-by-section description of the rules, along with the proposed amendments and new rules.

### **Subchapter 1. General Provisions**

Existing *N.J.A.C. 14:1-1.1*, which covers the scope of the rules, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-1.2*, which provides for liberal construction and amendment of the rules, and for Board relaxation of the rules in special cases, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-1.3*, contains definitions of terms used in the rules, and is proposed for readoption with an amendment to add a definition of "electronic filing."

Existing *N.J.A.C. 14:1-1.4*, which contains the street address and office house of the Board, is proposed for readoption with amendment to update the address.

Existing *N.J.A.C. 14:1-1.5* which delineates the different filing methods for formal and informal proceedings brought before the Board is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-1.6* governs communications with the Board, and is proposed for readoption with amendment at subsections (a), (b) and (c) to reflect changes in technology.

Existing *N.J.A.C. 14:1-1.6A*, which covers the submittal of comments on rule proposals, is proposed for readoption with amendment to reflect changes in technology and other clarifications.

Existing *N.J.A.C. 14:1-1.7*, which addresses the Board's official records, is proposed for readoption with amendment to reflect changes in technology.

Existing *N.J.A.C. 14:1-1.8*, which governs the use of photographic equipment in Board proceedings, is proposed for readoption with amendment with clarifications.

## Subchapter 2. Fees and Charges

Existing *N.J.A.C. 14:1-2.1*, which governs the amount of fees and charges more particularly set forth in *N.J.S.A. 48:2-56*, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-2.2*, which governs the collection of fees and charges for document filings, is proposed for readoption with amendment to reflect changes in technology.

### Subchapter 3. Appearance Before the Board

Existing *N.J.A.C. 14:1-3.1*, which authorizes the Board to require evidence of a person's authority to appear before the Board in a representative capacity, is proposed for readoption with amendment with clarifications.

Existing *N.J.A.C. 14:1-3.2*, which requires adherence to ethical standards by attorneys appearing before the Board, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-3.3*, which governs appearances of former employees before the Board for six months after severing their association with the Board, is proposed for readoption with amendment to incorporate the Board's Code of Ethics.

### Subchapter 4. Pleadings

Existing *N.J.A.C. 14:1-4.1*, which describes the types of pleadings that may be filed with the Board, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-4.2*, which sets forth requirements for the number of copies of each pleading filed, is proposed for readoption with amendment to change the number of required copies from ten (10) to one (1) and to make other clarifications.

Existing *N.J.A.C. 14:1-4.2A*, which sets forth requirements for electronic filings, is proposed for readoption with amendment with clarifications.

Existing *N.J.A.C. 14:1-4.3*, which requires that certain documents submitted with pleadings conform to the Uniform System of Accounts, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-4.4*, which provides that the Board will construe pleadings with the view to affect justice, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-4.5*, which sets forth requirements for serving pleadings and providing notice of filings to parties and the public, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-4.6*, which requires that certain pleadings be verified, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-4.7*, which provides for amendments to pleadings to reflect changes in facts or circumstances, is proposed for readoption without amendment.

#### Subchapter 5. Petitions

Existing *N.J.A.C. 14:1-5.1*, which sets forth the basic requirements for the form and content of petitions, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.2*, which sets forth required information that must be included in a petition when the relief sought requires the approval of another government body in addition to the Board, is proposed for readoption with amendment to reflect changes in technology.

Existing *N.J.A.C. 14:1-5.3*, which provides for a petitioner to join with another, and for the Board to sever joined petitions, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.4*, sets forth the Board's procedures upon the filing of a petition, and is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.5*, sets forth the requirements for petitions for approval of franchises and consents, and is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.6*, sets forth the requirements for petitions for approval of sales or leases of property. The Board proposes a clarifying amendment to change the number of required copies to an original and one (1) copy.

Existing *N.J.A.C. 14:1-5.7*, which sets forth the requirements for petitions for approval of changes in the depreciation rate a utility uses, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.8*, sets forth the requirements for petitions for authority to utilize eminent domain, and is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.9* sets forth the requirements for petitions for authority to issue certain notices of indebtedness, such as stocks or bonds, and for authority to execute mortgages. The section is proposed for readoption with an amendment with clarifications.

Existing *N.J.A.C. 14:1-5.9A*, which sets forth certain requirements for approval of security issues by utilities, is proposed for readoption with an amendment with clarifications.

Existing *N.J.A.C. 14:1-5.10*, which sets forth the requirements for petitions for approval of transfers of capital stock, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.11*, which sets forth the requirements for tariff filings if the tariff or tariff amendments would not increase charges to customers, is proposed for readoption with amendment to reflect changes in technology and to correct a citation to the New Jersey Administrative Code.

Existing *N.J.A.C. 14:1-5.12*, sets forth the requirements for tariff filings if the tariff or tariff amendments would increase charges to customers, is proposed for readoption with amendments to (a) to correct a citation to the New Jersey Administrative Code; (b) to reflect the law in the telephone industry; (c) to reflect the change in the Board's policy on the consolidated tax adjustment; (d) to replace term "chosen freeholder" with "county commissioner"; and (e) to update the address for the Department of Law and Public Safety..

Existing *N.J.A.C. 14:1-5.12A*, which sets forth the requirements for approval of changes to the tariff filings if the tariff or tariff amendment would not increase charges to customers, is proposed for readoption with amendment with clarifications.

Existing *N.J.A.C. 14:1-5.13*, provides for the filing of an informal complaint in lieu of a petition, and is proposed for readoption with amendment to reflect changes in technology.

Existing *N.J.A.C. 14:1-5.14*, which sets forth the requirements for approval of a petition for a merger, consolidation, acquisition, or change in control, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-5.15*, which sets forth the requirements for approval of petitions requesting permission to keep records outside of New Jersey, is proposed for readoption without amendment.

Proposed new *N.J.A.C. 14:1-5.16* sets forth the requirements for petitions for rulemaking in accordance with *N.J.A.C. 1:30-4* and is proposed for readoption without amendment.

#### Subchapter 6. Answers and Replies

Existing *N.J.A.C. 14:1-6.1*, which sets forth the requirements for the form and content of answers and replies to petitions, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-6.2*, which sets forth deadlines for filing of answers or replies, is proposed for readoption without amendment.

#### Subchapter 7. Conferences and Settlements

The Board is proposing to rename the subchapter "Conferences and Settlements," rather than "Conferences" based on the proposed addition of *N.J.A.C. 14:1-7.5*, Approval of settlements.

Existing *N.J.A.C. 14:1-7.1*, which sets forth the purpose of the subchapter regarding conferences, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-7.2*, which provides for the Board to require a pre-transmittal conference, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-7.3*, which requires a stipulation to the results of the conference, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-7.4*, which sets forth the authority of Board designees to conduct pre-transmittal conferences, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-7.5*, which provides that a settlement includes any agreement between the parties that resolves disputed matters and may end all or part of the case, is proposed for readoption without amendment.

#### Subchapter 8. Contested Case Hearings

Existing *N.J.A.C. 14:1-8.1*, which requires that contested cases be conducted in accordance with the procedures in the Administrative Procedure Act, *N.J.S.A. 52:14B-1* and *52:14F-1*, the Uniform



Administrative Procedure Rules, N.J.A.C. 1:1-1, and the Board of Public Utilities Rules of Special Applicability, *N.J.A.C. 1:14*, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.2*, which provides for the filing of exceptions to the initial decision in a contested case, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.3*, which provides for the Board to initiate a review of the initial decision, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.4*, which provides for the reopening of a contested case, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.5*, which sets forth the content and procedure for a motion to reopen a contested case, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.6*, which provides for motions for rehearing, reargument, or reconsideration, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-8.7* sets forth requirements for filings and notice to the parties of motions, provides that no action by the Board within 60 days shall be deemed a denial, and that filing or granting of motions does not stay a Board decision. The section is proposed for readoption with amendment to clarify section title and to add new section to address appeals of Board orders.

#### Subchapter 9. Uncontested Case Proceedings

Existing *N.J.A.C. 14:1-9.1*, sets forth the scope of the subchapter on uncontested case proceedings, and is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-9.2*, which authorizes the Board to designate a hearing officer in an uncontested proceeding, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-9.3*, which sets forth requirements for filings in uncontested case proceedings, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-9.4*, which allows the use of recording devices at uncontested case proceedings, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-9.5*, which cross-references requirements for appearances found at *N.J.A.C. 14:1-3*, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-9.6*, which allows a grace period after filings by mail, is proposed for readoption without amendment.

#### Subchapter 10. Compliance with Orders, Decisions, and Recommendations

Existing *N.J.A.C. 14:1-10.1*, requires a party to notify the Board of its compliance or noncompliance with a Board directive, and is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-10.2*, which requires a party to notify the Board of its acceptance or rejection of a Board recommendation, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-10.3*, which provides for extensions of time limits for compliance with a Board directive, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-10.4* sets a 15-day deadline for compliance with a Board directive requiring investigation, and is proposed for readoption without amendment.

Subchapter 11. Reserved

Subchapter 12. Procedures for Determining the Confidentiality of Submitted Information

Existing *N.J.A.C. 14:1-12.1*, which sets forth the scope of the subchapter concerning the Board's procedures for determining the confidentiality of submitted information, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.2*, which sets forth definitions of terms used in the subchapter concerning the Board's procedures for determining the confidentiality of submitted information, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.3*, which sets forth the procedure for making a confidentiality claim regarding submitted information, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.4*, which requires a person claiming the confidentiality of submitted information to designate one person to receive notices and correspondence from the Board concerning the claim, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.5*, which enumerates the information that the Board will send to the claimant's designee and provides the address of the Board's records custodian, is proposed for readoption with amendment to update address.

Existing *N.J.A.C. 14:1-12.6*, which sets timeframes for the Board to act on confidentiality claims, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.7*, which sets forth the required contents and timing of a notice to the claimant of a pending confidentiality claim, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.8*, which sets forth requirements for substantiating a confidentiality claim, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.9*, which provides for the Board to notify the claimant of the final confidentiality determination, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.10*, which requires the Board to treat information that is claimed confidential as confidential, until the Board has made a final determination on the confidentiality claim, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.11*, which provides for the Board to release information it deems not confidential, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.12*, which provides for the Board to disclose confidential information to other public agencies under certain circumstances, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.13*, which provides for the Board to disclose confidential information to its contractors under certain circumstances, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.14*, which provides for the Board to disclose confidential information in order to alleviate danger under certain circumstances, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.15*, which provides for the Board to disclose confidential information if the claimant provides written consent, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.16*, which provides for the Board to use confidential information in aggregations of data under certain circumstances, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.17*, which provides for these rules to supersede confidentiality agreements other than Board orders, is proposed for readoption without amendment.

Existing *N.J.A.C. 14:1-12.18*, which provides for payment to the Board for copies of records, is proposed for readoption with amendment to reflect changes in technology.

### **Social Impact**

The rules proposed for readoption with amendments and new rules will have a positive social impact in that they will continue and clarify the Board's procedures for contested and uncontested proceedings and treatment of information claimed as confidential. The proposed amendments, in addition to conforming to statutory changes, would update the rules to conform to current Board practices. These rules are designed to ensure orderly practice and procedure before the Board by establishing guidelines and specific requirements for the filing of petitions requesting relief from the Board, and other related submissions; as well as addressing the handling of all proceedings before the Board and the conduct of all affected parties. As they set forth the specific information that must be included in all filings, as well as the time frames within which said information must be submitted, these rules are essential if the Board is to process those petitions lawfully before it in an expeditious and just manner. While the majority of matters brought before the Board are submitted by regulated public utilities, petitions are also filed by persons who have grievances against regulated public utilities, or who seek other forms of relief that are within the jurisdiction of the Board.

## **Economic Impact**

While the rules proposed for readoption with amendments and new rules impose no direct or specific costs, all petitioners and other parties will incur varying levels of expenses in preparing and litigating petitions before the Board. These expenses will include costs related to legal assistance, accounting work, engineering input, and expert witnesses, as well as expenses involved in physically preparing and filing the appropriate submissions. With regard to regulated public utilities, all reasonable levels of expenses incurred in complying with these requirements will be considered to be business expenses to be recovered through customer charges. All fees and charges associated with practice and procedure before the Board are set pursuant to statute, *N.J.S.A. 48:2-56*. The collection of these fees and charges, however, is inapplicable to public utilities, which are subject to assessment pursuant to law, *N.J.S.A. 48:2-72*.

Finally, none of the proposed amendments and new rules will have an adverse economic impact, beyond that mentioned above.

## **Federal Standards Statement**

Executive Order No. 27 (1994) and *N.J.S.A. 52:14B-22* through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. *N.J.A.C. 14:1* is not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and *N.J.S.A. 52:14B-1* et seq., do not require a Federal standards analysis for the rules proposed for readoption with amendments and new rules.

## **Jobs Impact**

The Board anticipates that the rules proposed for readoption with amendments and new rules will have little or no impact on jobs in New Jersey. The rules proposed for readoption with amendments and new rules continue existing requirements for which any needed personnel are already in place. The rules proposed for readoption with amendments and new rules do not increase the number of employees that would be required by any of the entities regulated by the rules.

## **Agriculture Industry Impact**

*N.J.A.C. 14:1* has not to date had any impact on the agriculture industry in New Jersey, and no such impact is anticipated as a result of the rules proposed for readoption with amendments and new rules.

## **Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments and new rules at *N.J.A.C. 14:1* will impose some recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., is a business that has fewer than 100 full-time employees. As these rules apply to any person initiating or participating in proceedings before the Board, the rules will undoubtedly affect some small businesses. However, it is impossible to determine how many small businesses will be affected.

While the rules impose some minor reporting, recordkeeping, and compliance requirements, as discussed in the Summary above, these are generally simple requirements that provide for predictability and consistency in the Board's proceedings, and therefore ultimately result in a benefit to all affected persons, including small businesses. Furthermore, the procedures help to

protect parties to Board proceedings by ensuring notice of filings by other parties, and protection of the confidentiality of submitted information. Therefore, no special provisions for small businesses have been proposed.

To varying degrees, participants may choose to utilize professional services to assist in the preparation, filing, or litigation of matters before the Board. These services may include legal, accounting, engineering, and economic advisers. As previously indicated, all reasonable levels of expenses incurred by a public utility will be considered to be business expenses that may be recovered through rates to customers.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and new rules will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the rules of practice and procedure before the Board of Public Utilities.

### **Smart Growth Development Impact Analysis**

The Board anticipates that the rules proposed for readoption with amendments and new rules will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to the rules of practice and procedure before the Board of Public Utilities.



## Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement

The proposed readoption with amendments and proposed new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in New Jersey. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at [N.J.A.C. 14:1](#).

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### Subchapter 1 - GENERAL PROVISIONS

#### Section 14:1-1.1 – Scope

(No change.)

#### Section 14:1-1.2 - Construction and amendment

(a)-(c) (No change.)

#### Section 14:1-1.3 - Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

**“Electronically filed”** means submitted to the Board Secretary via the Board’s External Access Portal, <https://www.nj.gov/bpu/agenda/efiling/>, or emailed via [Board.Secretary@bpu.nj.gov](mailto:Board.Secretary@bpu.nj.gov).

...

#### Section 14:1-1.4 - Offices and hours

(a) The statutory office of the Board and the [office of the] Secretary [of the Board] are located at 44 South Clinton Avenue, [9th Floor,] P.O. Box 350, Trenton, New Jersey 08625-0350.

(b)-(c) (No change.) All offices of the Board are open on weekdays from 9:00 A.M. to 5:00 P.M., unless otherwise authorized by the Board.

#### Section 14:1-1.5 - Requesting Board action on a complaint

(a)-(b) (No change.)

#### Section 14:1-1.6 - Communications

(a) All communications, including formal pleadings, correspondence and other papers, shall be **submitted to the Board Secretary by email, filed electronically through the Board's External Access Portal, uploaded to the Board's public documents system or alternatively mailed** [addressed]to the Secretary, Board of Public Utilities, 44 South Clinton Avenue, [9th Floor,] P.O. Box 350, Trenton, New Jersey 08625-0350.

(b) All communications, except for comments on rule proposals, or other communications specifically exempted by rule, or by waiver, pursuant to N.J.A.C. 14:1-1.2(b), shall be deemed to be officially received **when submitted to the Board Secretary by email, filed electronically through the Board's External Access Portal, uploaded to the Board's public documents system or alternatively mailed to the Secretary**[when delivered] at the office [ of the Board or electronically pursuant to N.J.A.C. 14:1-4.2A] **B**[b]ut a [Commissioner or the] Secretary [or an Assistant Secretary] [of the Board ] may in his or her discretion receive papers and correspondence for filing.[ Comments on rule proposals shall be deemed to be officially received in accordance with N.J.A.C. 14:1-1.6A.]

(c) In a formal proceeding, a document submitted [via fax or] electronically will [neither be date/time stamped as] **be deemed** formally received [by the Board nor be entered] **when uploaded** into the case [or rulemaking record]**management system**, except as provided under N.J.A.C. 14:1-1.6A or 4.2A or otherwise permitted by order of the Board or a presiding Commissioner. Such documents shall only be distributed to the [addressee] **service list**.

#### Section 14:1-1.6A - Submittal of comments on rule proposals

(a) (No change.)

(b) (Reserved.)

(c) Comments on rule proposals shall be [submitted by e-mail,] **filed electronically in Microsoft Word format, or in PDF format with searchable text and cut and paste capability, through the Board's External Access Portal; or uploaded through the Board's Public Document Search tool; or emailed to Board.Secretary@bpu.nj.gov;**[, hand delivery,] or **by** regular mail, on or before the date identified in the rule proposal published in the New Jersey Register.

[(d) Comments submitted by e-mail shall be sent to the e-mail address specified in the rule proposal. E-mail comments shall be submitted in Microsoft Word format, or in PDF format with searchable text and cut and paste capability.

(e) Rule proposal comments shall not be subject to the requirements for number of copies at N.J.A.C. 14:1-4.2. If rule proposal comments are submitted by hand delivery or regular mail the Board requests, but does not require, that the commenter submit an original and five copies of the comments.]

[(f) **d** ) The date upon which a comment on a rule proposal shall be deemed received shall be as follows:

1. The date upon which the Board receives the comment at the e-mail address set forth in the published proposal **or if electronically filed, the date of submission.**

[2. The date upon which the comment is hand delivered to Board offices, to a Commissioner, or to the Secretary; or]

[3] **2.** The date upon which a comment sent by regular mail to Board offices is postmarked, in accordance with 1:30-5.4(d).

#### Section 14:1-1.7 - Official records

(a) (No change.)

(b) Copies of rules and orders and decisions of the Board will be furnished by the Secretary **by email, without a fee, or by mail** upon payment of appropriate fees.

(c) Copies of official Board annual reports or other reports will be furnished by the Secretary or its designee, **by email without a fee, or by mail**, upon payment of appropriate fees.

(d) (No change.)

#### Section 14:1-1.8 - Cameras and recording devices

(a) Proceedings before the Board shall be conducted with [fitting dignity and] **proper** decorum.

(b)-(g) (No change.)

### Subchapter 2 - FEES AND CHARGES

#### Section 14:1-2.1 - Amount of fees and charges

(No change.)

#### Section 14:1-2.2 - Payment of fees and charges

(a) No petition, report, notice, **or other** document, [or other paper] will be accepted for filing, and no request for **hard** copies of any forms, pamphlets, **or** documents [or other papers] will be

granted, nor action taken by the Board, unless such filings and requests are accompanied by the required fees or charges as provided by law.

(b) All checks for payment of such fees and charges shall be made payable to the order of "Treasurer, State of New Jersey" and delivered or mailed to the Secretary of the Board or its designee, 44 South Clinton Avenue, [9th Floor]P.O. Box 350, Trenton, New Jersey 08625-0350. The check shall include a description as to the nature of the payment.

### Subchapter 3 - APPEARANCE BEFORE THE BOARD

#### Section 14:1-3.1 - Appearances

Any person appearing before or transacting business with the Board in a representative capacity may be required by the Board to file evidence of his or her authority to act in such capacity, **subject to the provisions of N.J.A.C. 1:1-5.1-2 and N.J.A.C. 1:1-5.4.**

#### Section 14:1-3.2 - Ethical conduct

(No change.)

#### Section 14:1-3.3 - Former employees

**The Board incorporates by reference the Board of Public Utilities Code of Ethics provisions regarding the appearance of former employees before the Board of Public Utilities. Except with the written permission of the Board, no former member or employee of the Board or member of the Attorney General's staff assigned to the Board may appear in a representative capacity or as an expert witness on behalf of other parties at any time within six months after severing his or her association with the Board, nor may he or she appear after said six-month period in any proceeding wherein he or she previously took an active part when associated with the Board.**

## Subchapter 4 - PLEADINGS

### Section 14:1-4.1 - Pleadings enumerated and defined

(a) (No change.)

### Section 14:1-4.2 - Number of copies

(a) Unless otherwise required by the Board, there shall be filed with the Board for its own use, an original and [10] **1** conformed cop[ies]y of each pleading or other [paper] **document** and amendment thereof, **when filed by hard copy.**[and in addition an electronic version of each filing, proceeding or other paper and amendment thereof.]

(b) (No change.)

### Section 14:1-4.2A - Electronic filing

(a) The filing requirements of this subchapter shall not apply to any electronically filed pleading or other[paper] **document** and amendment thereof submitted pursuant to [an] **the** electronic filing program established by the Board.

(b) The requirements of [any]**the** electronic filing program established by the Board shall include, but not be limited to:

1.-3. (No change.)

[4. The electronic filing shall not affect the requirement to serve a hard copy of all pleadings to the Division of Law and Public Safety or the Division of Rate Counsel pursuant to N.J.A.C.14:1-5.12(b)2 or any other filing or service requirements set forth in the Board's rules in this chapter or at N.J.A.C. 14:17.]

### Section 14:1-4.3 - Attachments to pleadings

(No change.)

#### Section 14:1-4.4 - Defective pleadings

(No change.)

#### Section 14:1-4.5 - Service and notice of proceedings

(a) (No change.)

#### Section 14:1-4.6 - Verification

(No change.)

#### Section 14:1-4.7 - Changes in facts or circumstances

(a)-(b) (No change.)

### Subchapter 5 - PETITIONS

#### Section 14:1-5.1 - Form and content

(a)-(c) (No change.)

#### Section 14:1-5.2 - Applications to other regulatory bodies

(a) Where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body, the petition to the Board shall so state and include the following:

1.-2. (No change.)

3. If such an application or amendment thereof is filed with another State or Federal regulatory body subsequent to the date of filing with the Board but prior to its determination, **a** [three] cop[ies]y of such application or amendment thereof, together with **a**[three]cop[ies]y of any order or certificate issued relating thereto, shall be filed with the Board and served upon other parties of record.

#### Section 14:1-5.3 - Joinder of requests for relief

(a)-(b) (No change.)

Section 14:1-5.4 - Procedures of Board on filing of petition

(a)-(e) (No change.)

Section 14:1-5.5 - Petitions for approval of franchises or consents

(a)-(d) (No change.)

Section 14:1-5.6 - Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance, or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.A.C. 14:1-4 and 5.1 through 5.4 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. [Ten] **An original and one** cop[ies]y of a separate sheet or sheets designated Schedule

"A" containing a description of the property;

i.-ii. (No change.)

2.-15. (No change.)

(b)-(h) (No change.)

(i) Upon [written] request by a utility and in accordance with the general purposes and intent of this section, the Board shall grant said utility a waiver to the advertising requirement set out in

(b) above if:

1.-7. (No change.)

(j)-(k) (No change.)

Section 14:1-5.7 - Petitions for authority to change depreciation rates

(a)-(b) (No change.)

Section 14:1-5.8 - Petitions for authority to exercise power of eminent domain



(a)-(b) (No change.)

Section 14:1-5.9 - Petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages

(a) Petitions for authority to issue any stocks, bonds, notes, or other evidence of indebtedness, payable in more than one year from the date thereof, and to execute mortgages shall conform to the provisions of N.J.A.C. 14:1-4 and 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in the attached exhibits, provide the following information:

1.-5. (No change.)

6. Where one of the purposes is to reimburse the treasury for expenditures not [theretofore] **previously** capitalized by the issuance of securities, the petitioner shall also show the exact period and amount for which reimbursement is desired; comparative financial statements which shall include, as a minimum, balance sheets and utility plant by accounts as at the beginning and end of the period, as well as changes in the period, and, in the case of utility plant, additions and retirements shall be stated separately for each year; a statement indicating the source and application of funds during the period; a statement indicating the manner in which petitioner proposes to use the proceeds from the security issue; and the necessity and reasonableness of the proposed transaction;

7.-14. (No change.)

(b) (No change.)

Section 14:1-5.9A - Criteria for proposed security issues

(a) The [law at present casts upon the] Board [the responsibility of determining] **shall determine** what security issues may be made by public utilities in the State of New Jersey (N.J.S.A. 48:3-9). The Board, [after due hearing, or investigation, is required to] **shall** approve proposed security

issue[s;], **with or without hearing at its discretion**, provided the Board be satisfied that proposed issues are in accordance with law, and provided the Board approves the purpose of said proposed issues.

(b) (No change.)

(c) Various cases involving the approval of proposed security issues have been acted upon by the Board under the law. An analysis of many of these cases discloses certain general principles upon which these applications should be determined. These general principles will control unless and until good reason can be shown for departing therefrom. For the information of public utilities petitioning or intending to petition for the approval of security issues, certain of these general principles are set forth as follows:

1. (No change.)

2. The purpose of a proposed issue is not commendable[,] and will not carry the Board's approval where the issue, if approved, would result in an evasion of mandatory statutory provisions governing the issue, sale and delivery of securities. Thus, in the case of the Riverside Traction Company, cited in (b) above, the purpose of a proposed bond issue was held vitiated by the fact that said bond issue, if approved, would defer for a time or indefinitely postpone an assessment for an unpaid percentage of the face value of the stock issued and outstanding.

3.-9. (No change.)

#### Section 14:1-5.10 - Petitions for authority to transfer capital stock

(a) (No change.)

#### Section 14:1-5.11 - Tariff filings which do not propose increases in charges to customers

(a) Tariff filings for the purpose of making effective initial tariffs or revisions, changes or alterations of existing tariffs and which are not filed because of the need for additional revenue from products or services covered by existing tariffs and which do not propose increases in charges to customers, shall conform to the provisions of N.J.A.C. 14:1-4.2A and 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1.[Four copies of t] The proposed tariff or revision, change or alteration thereof, together with an explanation of the manner in which the tariff or change differs from the existing or prior tariff, and the effect, if any, upon revenue;

2.-5. (No change.)

Section 14:1-5.12 - Tariff filings or petitions which propose increases in charges to customers

(a) Tariff filings or petitions for the purpose of making effective or making revisions, changes, or alterations of existing tariffs which propose to increase any rate, fare, toll, rental, or charge or so to alter any classification, practice, rule, or regulation as to result in such an increase, other than filings to effectuate the operation of an existing fuel or raw materials adjustment clause, shall conform to the provisions of N.J.A.C. 14:1-4.2A and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, contain all applicable information and data set forth in N.J.A.C. 14:1-5.11 and , in addition, shall contain the following information and financial statements which shall be prepared in accordance with the applicable Uniform System of Accounts:

1.-6. (No change.)

[7. Whenever a telephone company seeks to increase its rates, it shall include in its petition or attachments thereto information demonstrating the principles of rate design employed in the

proposed tariff revisions. Such information shall identify the approximate percentage of increased revenue requirement, should the Board determine a lesser additional revenue requirement than that sought by the company, at which it would derive a different proportion of revenue requirement from each of the major classes of service whose prices are sought to be increased, and the revenue requirement by class at each such level. The information shall include a statement of the amount and percentage of increase which would be raised from each such class of service if relief of approximately one-third the request were approved by the Board;]

[8.]**7.** In providing the information required by (a)5, 6 and above, a company may also file, in addition to the new rates proposed to become effective, alternative rate changes designed to produce the full revenue request, which alternatives are illustrative of the application of other possible rate designs to the filing;

Recodify existing 9.- 10. as **8.- 9.** (No change in text.)

[11.]**10.** If a company is part of a family of companies that files a consolidated Federal income tax return, that company shall include in its petition a consolidated tax adjustment (CTA) calculation using the rate base method, which allows the parent company to keep certain tax savings, while requiring the petitioner to reflect the savings by reducing the rate base upon which the utility's return is determined. The CTA calculation must include all supporting information and documents necessary for the Board to determine and implement an appropriate CTA calculation pursuant to this section. A CTA provides a mechanism that the Board will utilize in rate cases, so that ratepayers should share a specified portion of the tax savings achieved from the filing of a consolidated tax return. Required information and supporting documents include, but are not limited to, a schedule showing each affiliate

company's taxable income/loss by year, an indication whether the affiliate is a regulated utility company or not, the statutory Federal income tax requirement for each year, if any, and the alternative minimum tax requirement for each year, if any. The review period for the CTA calculation shall be for five consecutive tax years, including the complete tax year within the utility's proposed test year. The calculated CTA shall be allocated, so that the rate base [may be reduced by up to 25 percent of the full CTA] **shall be reduced by 100 percent of the full CTA**. The transmission portion of an electric distribution company's income shall not be included in the calculation of CTA.

(b) Each utility that makes a filing under (a) above shall, unless otherwise ordered or permitted by the Board, give notice thereof as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered a service, the charge for which is proposed to be increased, the clerk of the Board of **County Commissioners** [Chosen Freeholders] of each affected county and, where appropriate, the executive officer of each affected county;

2. Serve a notice of the filing and two copies of the petition or tariff on the Department of Law and Public Safety, [124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101] **Division of Law, Public Utilities Section, R.J. Hughes Justice Complex | 25 Market St. | 7<sup>th</sup> Floor West, PO Box 112, Trenton, NJ 08625** and on the Director, Division of Rate Counsel, 140 East Front Street 4th Floor, P.O. Box 003, Trenton, New Jersey 08625;

3. (No change.)

(c)-(e) (No change.)

(f) Unless otherwise ordered by the Board, a utility that seeks to implement a provisional rate increase shall:

1. Serve written notice of the intended provisional rate increase at least 30 days in advance of the provisional rate increase, but not earlier than 75 days in advance of the provisional rate increase, upon:

i.-ii. (No change.)

iii. The Department of Law and Public Safety, Public Utilities Section, [124 Halsey Street, PO Box 45029, Newark, New Jersey 07101]**25 Market Street, P.O. Box 112, Trenton, NJ 08625;**

iv. (No change.) v. The clerk of the board of **county commissioners** [chosen freeholders] of each county where the utility renders service;

vi.-ix. (No change.)

2.-4. (No change.)

(g)-(k) (no change.)

Section 14:1-5.12A - Changes to levelized energy adjustment clause rates, basic generation service rates, or basic gas supply service pricing rates

(a) Unless otherwise ordered or permitted by the Board, a utility that files a request for an adjustment to its levelized energy adjustment clause rates, its basic generation service clause rates, or its basic gas supply service pricing clause rates, shall conform to the following requirements:

1.-3. (No change.)

(b) The adjustment clauses and requirements set out in (a) above do not pertain to Purchase Water Adjustment Clauses or Purchased Sewerage Treatment Adjustment Clauses as the criteria **for these clauses are specifically addressed in N.J.A.C. 14:9-7.**

Section 14:1-5.13 - Informal complaint in lieu of petition

(a) In lieu of filing a petition, an informal complaint may be made by letter, e-mail, [fax or other writing] **electronic filing**; or by telephone call.

(b)-(i) (No change.)

Section 14:1-5.14 - Petitions for approval of a merger, consolidation, acquisition and/or change in control; standard of review

(a)-(d) (No change.)

Section 14:1-5.15 - Petitions for permission to keep books and records outside the State of New Jersey

(a) Petitions for authority to keep books, records, accounts, documents and other writings outside the State of New Jersey, filed with the Board, as required under N.J.S.A. 48:3-7.8, shall conform to the provisions of N.J.A.C. 14:1-4 and 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1.-11. (No change.)

Section 14:1-5.16 - Petitions for rulemaking

(a)-(i) (No change.)

Subchapter 6 - ANSWERS AND REPLIES

Section 14:1-6.1 - Form and content

(a)-(d) (No change.)

## Section 14:1-6.2 - Time for filing

(a)-(c) (No change.)

## Subchapter 7 - CONFERENCES AND SETTLEMENTS

### Section 14:1-7.1 - Purposes

(a)-(b) (No change.)

### Section 14:1-7.2 - Initiation of conferences

(a)-(b) (No change.)

### Section 14:1-7.3 - Stipulation of conference results

(a)-(c) (No change.)

### Section 14:1-7.4 - Authority of Board-designated officers

(a)-(b) (No change.)

### Section 14:1-7.5 - Approval of settlements

(No change.)

## Subchapter 8 - CONTESTED CASE HEARINGS

### Section 14:1-8.1 - Contested case procedures

(No change.)

### Section 14:1-8.2 - Argument on exceptions

(No change.)

### Section 14:1-8.3 - Review of initial decision by the Board on its own motion

(No change.)

### Section 14:1-8.4 - Method of reopening



(a)-(b) (No change.)

Section 14:1-8.5 - Motions to reopen

(a)-(c) (No change.)

Section 14:1-8.6 - Rehearing, reargument, or reconsideration

(a)-(b) (No change.)

Section 14:1-8.7 - Motions and answers on rehearing, **reopening or reconsideration**

(a)-(d) (No change.)

**(e) Appeals of the Board's rulings on a motion for rehearing, reopening or reconsideration must be made to the Appellate Division within 45 days of the Board's Order. The *Rules Governing the Courts of the State of New Jersey* provide the rules and procedures for filing the appeal. Information regarding filing an appeal may be obtained from the Superior Court of the State New Jersey.**

## Subchapter 9 - UNCONTESTED CASE PROCEEDINGS

Section 14:1-9.1 - Uncontested case proceedings

(No change.)

Section 14:1-9.2 - Designation

(No change.)

Section 14:1-9.3 - Filing

(No change.)

Section 14:1-9.4 - Cameras and recording devices

(No change.)

Section 14:1-9.5 - Appearances

(No change.)

#### Section 14:1-9.6 - Service

(No change.)

### Subchapter 10 - COMPLIANCE WITH ORDERS, DECISIONS AND RECOMMENDATIONS

#### Section 14:1-10.1 - Orders and decisions

(No change.)

#### Section 14:1-10.2 - Recommendations

(No change.)

#### Section 14:1-10.3 - Extension of time limits

(No change.)

#### Section 14:1-10.4 - Answers to communications

(No change.)

### Subchapter 12 - PROCEDURES FOR DETERMINING THE CONFIDENTIALITY OF SUBMITTED INFORMATION

#### Section 14:1-12.1 - Scope

(a)-(f) (No change.) Section 14:1-12.2 - Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(No change.)

#### Section 14:1-12.3 - Procedure for making a confidentiality claim

(a)-(g) (No change.)

Section 14:1-12.4 - Designation by claimant of a designee for notices and inquiries

(a) A claimant shall designate a person as the proper addressee of notices and other communications from the custodian under this subchapter. To designate such a person, the claimant shall submit the following information to the custodian in writing:

1.-3. (No change.)

Section 14:1-12.5 - Correspondence, inquiries and notices

(a) (No change)

(b) A claimant shall direct all correspondence, inquiries, notices and submissions concerning confidentiality claims under this subchapter to the custodian at:

Records Custodian

New Jersey Board of Public Utilities

44 South Clinton Avenue [, 9th Floor]

P.O. Box 350

Trenton, New Jersey 08625-0350

Section 14:1-12.6 - Time for making confidentiality determinations

(a)-(d) (No change.)

Section 14:1-12.7 - Notice of pending confidentiality determination

(a)-(b) (No change.)

Section 14:1-12.8 - Substantiation of confidentiality

(a)-(d) (No change.)

Section 14:1-12.9 - Final confidentiality determination

(a)-(e) (No change.)

Section 14:1-12.10 - Treatment of information pending confidentiality determination

(No change.)

Section 14:1-12.11 - Availability of information to the public after determination that information is not confidential

(No change.)

Section 14:1-12.12 - Disclosure of confidential information to other public agencies

(a) (No change.)

Section 14:1-12.13 - Disclosure of confidential information to contractors

(a)-(b) (No change.)

Section 14:1-12.14 - Disclosure to alleviate an imminent and substantial danger

(a)-(b) (No change.)

Section 14:1-12.15 - Disclosure by consent

(a)-(b) (No change.)

Section 14:1-12.16 - Incorporation of confidential information into accumulations of data

(No change.)

Section 14:1-12.17 - Confidentiality agreements

(a)-(c) (No change.)

Section 14:1-12.18 - Payment for copies

(a) (No change.)

(b) For the convenience of the requester, payment may be made in cash, by check[,]~~or~~ money order [or credit card].